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REAGAN ADMINISTRATION INFORMATION POLICIES

All Presidents have shown a desire to restrict access to information. But many press groups insist that Ronald Reagan and his administration have been unusually active in this area. And concern is growing about the implications of another term of restrictive policies.

BY MARGARET GENOVESE
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The Justice Department seeks to weaken the Freedom of Information Act.

The Defense Department clamps a lid on release of unclassified information.

The CIA prepares legislation to criminalize the disclosure of classified information to reporters.

The President directs more than 100,000 federal workers to sign lifetime censorship contracts.

The press is excluded from on-the-scene coverage of U.S. troops landing on Grenada.

What do they add up to?

"All in all, I think we are faced with an administration that is quite uncomfortable with a free flow of information," says Charles S. Rowe, editor and co-publisher of The Free Lance-Star in Fredericksburg, Va., and chairman of the First Amendment/Freedom of Information working group of the ANPA Government Affairs Committee.

Dom Bonafede, senior contributing editor of National Journal, a weekly magazine that covers the federal government, goes even farther. The administration of Ronald Reagan, the "Great Communicator," is, he says, "more repressive against the free flow of information than any other administration of recent times."

Even some of the staunchest Reagan supporters among the press are critical of the administration's information policies.

The Enterprise, a 13,000-circulation daily in Simi Valley and Morepark, Calif., twice endorsed Ronald Reagan for President. Says Editor and Publisher Wayne Lee: "He is a hell of a lot better than Jimmy Carter was or Walter Mondale would have been." But when it comes to access to government information, Lee rates the Reagan record as "deplorable."

"And, frankly," he adds, "I don't understand it for a fellow who keeps talking about freedom and the fact that much of [this country's] freedom rests on the free access to information."

Although the press may seem to be acting in concert in criticizing the administration's information policies, not every initiative draws unanimous condemnation.

For instance, at least one press group opposed the Reagan administration's policy of notifying a business when it becomes the subject of an FOIA request; others have not. When the press was barred from coverage of the first two and a half days of the October 1983 invasion of Grenada, most news organizations protested vehemently; but some like The Richmond [Va.] Times-Dispatch sprang to the administration's defense.

In fact, there have always been some divisions in the media ranks. To cite one example: In 1974, ANPA did not join other press organizations in urging Congress to override a presidential veto of amendments to strengthen the FOIA, but instead it urged the adoption of compromise language suggested by President Gerald R. Ford.

However, among press groups today, there is widespread and growing concern about the prospect of four more years of

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restrictive information policies. Tony Mauro, immediate-past chairman of the Freedom of Information Committee of the Society of Professional Journalists, Sigma Delta Chi, is one who doubts the access-to-information situation will improve during the second Reagan term, especially because the re-elected President does not have to face the voters again.

Observes Mauro, who covers the news media and the law for Gannett News Service: "Every president, to some extent, tries to batten down the hatches. . . . It seems to go with the office. But Reagan has elevated it to an art form."

Some wonder whether the nature of information flow in the United States might be altered for decades to come by two consecutive presidential terms in which the general attitude was one of withholding, not disclosing.

Responding to a litany of press complaints, President Reagan's chief spokesman told presstime the administration did not come into office with a plan to restrict information. "Never did we set out a grand design that we were going to dry up information or funnel information," says Deputy Press Secretary Larry M. Speakes. (See story, p. 22.)

But concern among media groups is so great that some are considering going on the offensive. SPJ,SDX, for example, is working with a congressional subcommittee on a draft FOIA *improvements* bill. "If the agenda is always defined by the administration, then you are always reacting defensively," says Bruce W. Sanford, SPJ,SDX First Amendment counsel.

Not the first. As critics of the Reagan administration information policies concede—and administration supporters point out—there is nothing new in the desire of Presidents to restrict access to government information.

At the Constitutional Convention in 1787, two years before he became President, George Washington took the assemblage to task for not being more careful about safeguarding state secrets.

"Gentlemen," Washington said, "I am sorry to find that some one member of this body has been so neglectful of the secrets of this convention as to drop in the State House a copy of their proceedings, which by accident was picked up and delivered to me this morning. I must entreat, gentlemen, to be more careful, lest our transactions get into the newspapers and disturb public response by premature speculations."

In more recent times:

- Harry S Truman extended almost government-wide the authority to classify information—something that had been limited to the Defense and State departments.
- Dwight D. Eisenhower withheld information from Congress on the basis of executive privilege.
- John F. Kennedy was accused of "muzzling the military" by requiring a Pentagon press representative to be present when a reporter interviewed a Defense Department official.
- Lyndon B. Johnson tried unsuccessfully to get the Freedom of Information Act killed in Congress.
- Richard M. Nixon claimed executive privilege as one of the bases for withholding information from Watergate investigators.
- Gerald Ford vetoed the amendments to strengthen the FOIA.
- Jimmy Carter's Justice Department prepared a package of amendments that would have weakened the FOIA.

"All Presidents have a tendency to restrict the disclosure of damaging information," says historian and presidential biographer James MacGregor Burns. "Quite obviously, the question is how much they do."

For example, says Burns, during the administration of President Franklin D. Roosevelt, there was "a tremendous effort to educate and inform the American people. And since Mr. Reagan likes to compare himself with Roosevelt, I think FDR still has a lot to teach Ronald Reagan."

A Washington, D.C.-based longtime battler for a free flow of information, attorney Richard M. Schmidt Jr., observes that "no government 'loves' a free press, and that includes our government. They, at best, tolerate a free press."

But the Reagan administration, compared with the four previous ones he has observed at close range, has "been busier in more areas in its attempts to control the flow of information to the public, and seems to have done that with more public acceptance, than previous administrations," says Schmidt, who is general counsel of the American Society of Newspaper Editors.

Media attorney, Floyd Abrams of New York City, says flatly that when the Reagan administration's information policies are viewed in their entirety, the picture is not a pretty one.

On the whole, says Abrams, the policies are "restrictive," are "based on the assumption that information doesn't much matter except for the potential harm it can do," and follow an approach "which is extremely hostile to the notion of taking any sort of risks for the greater gain of a more informed public."

The Reporters Committee for Freedom of the Press recently issued a report chronicling 51 "actions by the Reagan administration and its legislative supporters aimed at restricting public and media access to government information and intruding on editorial freedom." Says Jack C. Landau, executive director: "If you are trying to find a synthesis, it all starts from the same intellectual basis: 'We own it (information) and we will decide if it is in the public interest (for the public) to have it.'"

"The most grotesque example of it was Grenada," says Landau. "They claimed they owned the war. . . ."

The exclusion of the news media from the initial stages of the invasion is perhaps the most dramatic example of information control exerted by the Reagan administration.

The outcry from the press led General John W. Vessey Jr., chairman of the Joint Chiefs of Staff, to create a panel of military officers, former journalists and journalism educators to make recommendations on military-press policy. As a result of its deliberations, the Pentagon says it is forming a standing

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contingency "pool" of reporters which could accompany the military into future surprise operations [presstime, Nov. 1984, p. 38].

Assaults on the FOIA. While that skirmish has ended in at least a partial victory for press-government cooperation, a battle that could be more important in the long term still is being fought over the Freedom of Information Act.

Enacted in 1966, and bolstered by strengthening amendments enacted by Congress in 1974 over President Ford's veto, the FOIA essentially requires the federal bureaucracy to make information available to the public, with certain exceptions. It is the tool that allows the public and the press to tap into the federal government's vast reservoir of information.

Critics say that from the outset the Reagan administration has been attempting to slow the flow down the FOIA spillway.

Under FOIA, all information is presumed to be open except information fitting nine exemptions. In these cases, FOIA allows agencies to withhold information, but it does not *mandate* it.

"Every President, to some extent, tries to batten down the hatches," says Tony Mauro of SPJ,SDX. "Reagan has elevated it to an art form."

In the Carter administration, the Justice Department said it would defend an agency's decision not to withhold records only when release would be "demonstrably harmful" to the government. This policy would apply even to documents fitting one of the act's exemptions.

In April 1981, three months after taking office, then-Attorney General William French Smith rescinded that policy.

The Reagan administration's substitute policy does not encourage agencies to violate the law by withholding non-exempt information; but neither does it encourage agencies to disclose information that they have the discretion to release, observes Deborah Drosnin, editor of Access Reports/Freedom of Information, a newsletter that follows FOIA issues. "It seemed to be sending a signal to them: Don't go beyond the law," she says.

Six months after implementing this new policy, the Reagan administration unveiled its legislative proposal to amend the FOIA. Among other things, the proposal called for broadening four of the act's nine exemptions and adding two others. The administration said the proposal, which it termed "very modified and limited," was aimed at helping law enforcement, protecting businesses' proprietary information and safeguarding personal privacy.

Press organizations, though, labeled it a full-scale assault on the law. And they still do.

"The administration aims its so-called reforms at what it thinks are abuses of the FOIA, but in so doing has cut a broad swath through the public's and press's right to know," says Tonda F. Rush, ANPA counsel/government affairs.

"For example, the Justice Department says it receives requests for federal records from organized crime figures, but rather than looking to the law's exemptions for sensitive law enforcement material, it proposes to simply put all organized crime records under seal for eight years," Rush says. "The result would be less information about such headline stories as Abscam, Jimmy

They're fighting FOI battles in Canada, too

Efforts to control the flow of government information have been made in Canada, too.

The government of Prime Minister Brian Mulroney began last year with a preoccupation with secrecy, according to some Canadian journalists, although they say the situation has eased.

Last November, employees of the Ministry of External Affairs were directed to funnel all press inquiries through the ministry's press secretary. They even were warned about discussing government business if they should encounter a member of the news media in a social setting.

This action followed a spate of press reports quoting sources within the ministry—the equivalent of the U.S. State Department—speculating that certain embassies would be closed for budget reasons.

Several weeks later, that directive was replaced by government-wide guidelines.

Those guidelines advise public servants to speak to members of the media only on the record, for attribution by name, and to confine their answers to matters of fact, not speculation. Off-the-record briefings are permitted only in "exceptional" circumstances and only with the prior approval of a cabinet minister.

Although the for-the-record edict is still in effect, external affairs employees gradually have returned to their "longstanding" practices in dealing with the media, says Sean Brady, the official spokesman for the Ministry of External Affairs.

Edison Stewart, a reporter for the Canadian Press in Ottawa, agrees that there has been some relaxation in government-press relations. "There doesn't seem to be the preoccupation of secrecy that there was, but they are not going around leaking documents, either," he says.

The guidelines have not been all bad for the press. Stewart says he has used them to remind government sources that they are supposed to answer questions of fact.

Patrick Nagle, parliamentary reporter for Southam News, attributes the restrictions to the new government's being "an absolute rookie," starting with Mulroney, who served only one year in Parliament before his election last September.

Meanwhile, Canada's new Access to Information Act, comparable to the U.S. Freedom of Information Act, has been plagued by delays in processing complaints about denied requests.

In February, two assistant information commissioners were appointed to try to speed up the decision-making process.

Information Commissioner Inger Hansen says she requested the assistance to help the press get quicker responses and to have a large number of examples to cite when Parliament begins its mandated review of the act sometime within the next year and a half.

Although her office has processed 150 complaints in the last 10 months, a backlog of 90 cases remains, Hansen reports.

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Hoffa's disappearance and drug trafficking from South America—all stories in which the public has an intense and legitimate interest."

Although the Republican-controlled Senate in the last Congress passed a bill incorporating some of the administration's proposals, the Democrat-controlled House Government Information Subcommittee reported no bill to the House.

Fixing fees. In addition to adding exemptions, the administration proposal would have added to the cost of using the FOIA. It would have allowed agencies to charge for all costs attributable to processing FOIA requests, not just for search time and copying.

When the legislative proposal stalled on Capitol Hill, the Justice Department in 1983 took another route to cost recovery: It issued guidance to federal agencies that was viewed as more restrictive than the previous policy on waiving fees.

The FOIA provides for waiving fees when furnishing the requested information can be considered primarily benefiting the general public. And in the Carter administration, the Justice Department urged that discretion to waive fees be exercised "generously."

But Reagan's team at the department issued a new set of criteria for determining whether a waiver should be granted. It noted that "federal agencies are obligated to safeguard the public treasury" by refusing waivers when they do not meet the requirements of the law. It said agencies should consider whether there is a "genuine public interest in the subject matter" of the requested records.

A subsequent study by the lobbying organization Common Cause contradicted the notion that the federal government could realize any significant cost savings by denying waivers. For those agencies whose costs could be determined, the study found that the total value of fee waivers granted in 1982 amounted to only about three-tenths of one percent of the total cost of administering the FOIA. Common Cause concluded that the restrictive fee waiver policy "may result in the worst of all possible scenarios: limited public access to information offset by a marginal, at best, impact on total FOIA costs."

Has the policy resulted in limited access? Ask Lee E. Norrgard, senior editor of Common Cause magazine.

In 1983, Norrgard was chief investigator of the Better Government Association, a non-profit, civic watch-dog organization that conducts investigations and works with the news media to publicize the results.

Norrgard and United Press International reporter Gregory Gordon were working together on an investigation of foreign travel by members of Congress and other government officials. The probe was triggered by a leaked cable from U.S. Ambassador to France Evan Gailbraith, complaining about the amount of embassy staff time spent seeing to the needs of official U.S. visitors to the Paris Air Show.

On July 14, 1983, Norrgard made an FOIA request to the State Department's inspector general, seeking "any audits, inspections or reports" issued since January 1979 on five of the largest U.S. embassies in Western Europe.

On July 26, his request for a fee waiver was denied. He appealed, citing the public interest in finding out how embassies spend funds and detailing BGA's past work uncovering government scandals in partnership with the news media.

A month later, his appeal also was denied. "There is no current evidence to demonstrate any especially heightened interest in the expenditure of funds by large embassies abroad," wrote Frank M. Machak, the State Department's information and privacy coordinator. An incredulous Norrgard points out that only days before Machak's letter was written, UPI had carried a series of articles, based on the Gailbraith memo, about the Paris Air Show hospitality.

Norrgard says that prior to the embassy-spending case, he had never lost an appeal. He sued, whereupon the Justice Department decided not to defend the State Department but to waive the fee.

Nonetheless, the Better Government Association is proceeding with the case in order to challenge the fee-waiver policy.

In the past four years, the Reagan administration has made two other changes in the administration of the FOIA.

First, the Justice Department told agencies to implement a procedure whereby any business that becomes the subject of an FOIA request must be given a chance to object before the information is released. Richard L. Huff, co-director of the Justice Department's Office of Information and Privacy, acknowledges that these "submitters' rights" policies have made it "extremely difficult and even in some cases impossible" for agencies to meet the FOIA's statutory response time of 10 days.

Second, the Office of Management and Budget told agencies they should consider information not available through the federal Privacy Act also to be unavailable through FOIA, although the FOIA's personal-privacy exemption is narrower. After press organizations objected, Congress overturned that policy.

Classification order. Issuing instructions on classifying information in the interests of national security long has been the prerogative of presidents.

When President Reagan issued his executive order on classification in 1982, critics said it reversed a 30-year trend toward limiting classification that began when President Eisenhower narrowed some of the classification authority extended in President Truman's much-criticized 1951 order.

In a report on the Reagan order, the House Committee on Government Operations concluded: "whether or not it was intended, the new order will lead to the classification of additional information."

The head of the office responsible for monitoring government classification insists the new order was not intended to increase government classification, nor has this been its result. In fact, says Steven Garfinkel, director of the General Services Administration's Information Security Oversight Office, the number of "original" classification actions during fiscal year 1983—the first full year the Reagan order was in effect—was 18-percent lower than the year before.

Criticism of the order may have actually helped keep classification down, suggests Garfinkel. "There was a great deal of effort to hold the line on classification," he says, because of all the adverse publicity at the time.

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But he acknowledges that the magnitude of classification in any given year is more a function of current events than policy. For instance, an event such as the bombing of the U.S. Marine barracks in Beirut in October 1983 "will result in literally tens of thousands of classified documents," he says.

Allan Adler, legislative counsel for the American Civil Liberties Union and a critic of the order, maintains statistics do not tell the whole story. Says Adler: "What we are talking about here is the administration's attitude toward classification policy.... Their attitude favors classification."

In a related area, the Reagan administration also has been criticized for drastically reducing funds for the government agency responsible for declassifying documents.

In Fiscal Year 1982 (the first budget year reflecting Reagan administration cuts), the budget for the National Archives' Records Declassification Division was cut to $1.4 million from its previous $2.3 million, and its staff was reduced to 53 from 93. In the current fiscal year, the division's budget is up to $2 million, but its staff has further shrunk to 44.

The National Coordinating Committee for the Promotion of History has been critical of the cuts. "Historians are very distressed that the declassification program has ground almost to a halt," says Page Putnam Miller, director.

The role of Congress. In the indictment of the Reagan administration's information policies, Congress has to be considered at least a co-conspirator. During the last four years, Congress has passed a number of bills that provide exemptions to the FOIA. Three have generated particulary strong objections from the press.

In 1984, Congress passed legislation that exempts certain CIA "operational" files from the act. The CIA argued that records in these files are already exempt from disclosure and that the exemption would merely relieve CIA personnel from having to search for requested material, only to declare it exempt. ANPA and other press groups succeeded in convincing Congress to strengthen the ability of the courts to review files that the CIA designated as exempt.

In contrast, the other two incontrovertibly put previously available information out of the reach of the press and public.

In 1983, Congress granted the Defense Department's request for authority to withhold from release under the FOIA *unclassified* information that has military or space application and that cannot be exported without a license under the Export Administration Act or the Arms Control Act. Defense officials contend that making this information freely available under the FOIA is tantamount to giving it to the Soviet Union.

The other measure, passed by Congress in 1981, gave the Department of Energy the authority it requested to withhold *unclassified* information pertaining to the design of nuclear weapons, the design of nuclear production facilities, and the security arrangements for the facilities or nuclear material in transit. Concern about the growing threat of terrorism was the justification given.

The regulations issued pursuant to the 1983 and 1981 laws have been criticized as going far beyond congressional intent.

At the Defense Department, directives implementing the law safeguarding military and space technology have been written so broadly that they could be used by the Pentagon to keep under wraps unclassified information that demonstrates weaknesses in weapons systems, says Clark Mollenhoff, a Pulitzer Prize-winning reporter turned journalism educator.

Mollenhoff says the regulations have the potential for becoming a kind of Official Secrets Act, à la Great Britain's, in which everything is secret except that which the government authorizes for release. Moreover, he says, the Pentagon already has the means to safeguard national security information—the classification system. "If it's unclassified, why the hell do you want to control it?" he asks. "If it should be classified, classify it."

Meanwhile, at the Department of Energy, proposed regulations governing so-called "Unclassified Controlled Nuclear Information" hit like a bomb when they were issued.

Among the groups contending that the regulations were far too broad was the American Society of Newspaper Editors. At a public hearing conducted by the department, ASNE General Counsel Schmidt testified that one provision "gives a blank check to the secretary of energy to withhold almost any information the secretary deems fit to withhold."

Final regulations have yet to be issued.

Plugging the leaks. Despite all the caulk put in place to prevent the disclosure of information the government wants kept secret, some of it inevitably will leak out.

Some of the harshest criticisms of Reagan administration information policies have dealt with its attempts to discourage government employees from leaking information to the press and to detect and punish those who do. The focal point has been National Security Decision Directive 84.

Although the issuance of the directive in March 1983 came two months after Reagan declared he had "had it up to my keister" with leaks, the deliberations leading up to the issuance of NSDD-84 began long before that.

NSDD-84 grew out of a series of meetings in early 1982 of representatives of the departments of Defense, Energy, Justice, State, Treasury and the CIA.

Among other things, NSDD-84 required all government employees with access to "sensitive compartmented information," or SCI, to sign a statement agreeing to submit to government censors any writing they might do—even after leaving government service—that related to SCI or other classified information. It also instructed agencies to implement procedures for using polygraphs to investigate news leaks.

Comments White House spokesman Speakes: "Our approach to those types of things is mainly from the standpoint of national security. The President felt very strongly that top secret and other highly classified material was ending up in the newspapers and on television, and it was harmful to the national security."

But ANPA's Rowe, testifying before a congressional subcommittee, called NSDD-84 "another building block in the

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wall that this administration appears to be building to shut off the flow of information to the public."

Congress passed legislation delaying the effectiveness of the lifelong censorship and polygraph provisions. Subsequently, the President indefinitely suspended these provisions.

Although the action defused the controversy, congressional sources say the administration's use of prepublication review and lie-detector tests has not stopped.

According to Rep. Jack Brooks (D-Texas), chairman of the House Government Operations Committee, the suspension of the prepublication review provision of NSDD-84 has not affected a similar program begun in 1981.

The General Accounting Office told his committee last spring that all agencies with personnel with access to SCI are requiring them to sign lifelong prepublication review contracts, Brooks says. The contracts are "virtually identical" to those proposed under NSDD-84, he says.

In addition, while the polygraph provision of the President's NSDD-84 is in abeyance, the Defense Department has been given the congressional go-ahead to conduct polygraph screening tests this year of up to 3,500 employees. The department has said the examinations have "nothing to do with leaks." But three of the questions that affected employees will be asked are whether they have ever been approached to give or sell classified information to unauthorized persons, whether they ever did so, and whether they know anyone who did. A department official acknowledged that "unauthorized persons" could be reporters.

Four more years. Looking ahead, media attorney Abrams told members of the ANPA Government Affairs Committee in March that he believes the administration is likely to increase the use of the espionage law against publishing material that it considers harmful to national security.

It already is doing so in one case, he pointed out.

Samuel L. Morison, a Navy intelligence analyst, was indicted last October on charges he sold classified satellite photographs to a British magazine. He is being prosecuted under the Espionage Act of 1917. In March, a U.S. District Court judge ruled that the law can be used to prosecute someone who has released information to the press and not a foreign government. It was the first time a ruling had been made on the question.

Abrams also noted that in two recent instances in which administration officials castigated the press for publishing information they considered harmful to national security, they couched their criticism in terms of criminal wrong-doing.

In those cases, Secretary of Defense Caspar W. Weinberger accused The Washington Post of lending "aid and comfort" to the enemy for its article reporting on the secret military payload of the space shuttle Discovery; and Lt. Gen. John T. Chain Jr., director of the State Department's Bureau of Politico-Military Affairs, accused Leslie H. Gelb, a writer for The New York Times and a predecessor in Chain's post, of "willingly, willfully and knowingly" publishing a story "damaging to the country." The Gelb piece dealt with U.S. contingency plans for emergency deployment of nuclear weapons in several foreign countries.

There is precedent during the Reagan administration's first term for criminalizing the publication of sensitive information. In 1983, Congress passed legislation making it a crime to publish the names of intelligence agents.

And now in Congress, the stage is set for continuing confrontations over information policy.

Rep. Brooks has reintroduced a bill to outlaw prepublication review agreements except for those used by the CIA and the NSA and to void those that have already been signed. His bill also would put limits on the uses of polygraphs.

In late March, the administration said it was considering legislation proposed by the CIA that would impose criminal penalties on government employees who disclose classified information to reporters or others.

Meantime, Sen. Orrin G. Hatch (R-Utah), chairman of the Senate Judiciary Committee's Constitution Subcommittee, has resuscitated the administration-backed FOIA bill passed by the Senate during the last Congress.

In anticipation of renewed efforts to weaken the FOIA, ANPA will work to "solidify our position in support of the law basically as it is now written," according to W. Terry Maguire, vice president/general counsel.

The press also should work "harder than ever" to reestablish trust with its readers, Arthur Ochs Sulzberger, publisher of The New York Times, said in a speech late last year on the outlook for the press in the second Reagan administration. "We want them to understand that when newspeople go ashore with the troops, it is not to leak information to the enemy but to faithfully report to the reader, and no one else, what is happening."

Sulzberger said he feared "a continuing move afoot to cast the American press as untrustworthy and, indeed, somewhat un-American."

Evidence of that came recently when an administration official, White House Science Advisor G. A. Keyworth II, accused the press of "trying to tear down America."

Responding, ANPA Chairman and President Richard J. V. Johnson said politicians such as Keyworth "apparently would prefer a 'press' that agrees with them and articulates only their beliefs and that only reports their view of events."

Said Johnson, president of the Houston Chronicle: "In fact, what our free press and our citizens' free speech do is preserve a robust exchange of myriad, diverse views within a free marketplace of competitive ideas." □

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An avid FOIA user says the process has bogged down

One person who says he has seen a marked change during the Reagan administration in the government's willingness to divulge information is Scott Armstrong, one of the all-time champs in the FOIA-user division.

A former reporter for The Washington Post, Armstrong, 39, is writing a book on foreign policy and national security decision-making. He began his research for the book when he was on the Post staff, which he joined in 1976 after a career that included stints as a private investigator in the District of Columbia and as senior investigator for the Senate Watergate Committee.

Traditionally, he says, federal agencies have gone to great lengths—and great expense—to provide quick and "voluminous" responses to reporters' requests for information.

"Sometime early in this administration—I would put it sometime in mid-1981—the pattern and practice of providing such information to reporters narrowed substantially.

Some agencies, including the CIA, stopped providing reporters with background briefings, he says. Others began responding to some inquiries with "File an FOIA request."

Armstrong has done just that.

In fact, he estimates he now has 2,000 FOIA requests outstanding, primarily to the departments of Defense, State, Treasury, Energy, Agriculture and Commerce and to the CIA. If not the biggest current user of the FOIA, Armstrong believes he is certainly "in the top 10."

Scott Armstrong

At the Defense Department, which Armstrong says used to have one of the federal government's best FOIA response records, his requests began to take longer to process. The responses, when they finally came, were incomplete. His appeals of initial denials of information also have bogged down, he says. The Post filed four lawsuits against the department over Armstrong's FOIA requests.

Armstrong is not the only one with complaints about his FOIA requests. The Defense Department March 5 informed Leonard Downie Jr., managing editor of the Post, that it would not process any of Armstrong's pending requests, or one from a current Post reporter, until Armstrong paid the $430.56 it says he owes in FOIA fees.

In its letter to Downie, the department said it had already spent $34,187.76 processing Armstrong's 408 requests. Because the FOIA allows requestors to be charged only for search time and copying, the department said "collectible charges" amounted to $15,693.61, of which it had waived $15,095.08 in the public interest.

Armstrong, who has paid $167.97 in FOIA fees to DOD under protest, says the sum of money involved is not the point. It's the principle that the Defense Department is making the determination that some of the material he is requesting does not qualify for a fee waiver.

On March 13, the Post paid the $430.56. Staff attorney Patrick J. Carome said the newspaper was not acceding to the department's claim that it was due the fee, "but we do not want the question of these charges to stand in the way of the timely and proper processing of any Post FOIA requests."

A Pentagon public affairs officer said the FOIA office would not comment on the Armstrong case because of the pending lawsuits.